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ABSTRACT

Schools are legally responsible for delivering to all children what the state and school boards mandate in a prescribed curriculum, while teachers are held accountable for its delivery. A major part of this responsibility relates to the teaching of the basic skills of reading, writing, and computation. A current trend to assure the teaching of these skills is competency testing, which in some cases has resulted in revision of curricula and a strengthening of those areas covered by the tests. Critics contend, however, that minimum competency exams test too narrow a range of skills and do not produce a better instructional system. Some form of periodic and systematic audit of pupil progress is necessary, but merely passing competency laws or providing for education through legislative mandate will not insure that students acquire the basic skills. It is the legal responsibility of all teachers to see that a basic skills curriculum is followed, that students are expected to achieve a level of proficiency in the use of the English language and in computation, and that periodic evaluation of that achievement becomes part of curriculum planning. (HTH)

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THE LAW AND THE TEACHER OF BASIC SKILLS

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THE LAW AND THE TEACHER OF BASIC SKILLS

Introduction

An often frustrating fact about American public schools is that it appears either no one or everyone is in control. Parents feel it's their right to dictate who should teach, what is taught, and how it is taught. Teachers may believe, as professionals, that all the decisions rest in their power. Administrators, individual board members, pressure groups . . . each believes they should make the educational decisions.

Teachers of the traditional basic skills--reading, writing, computing--have the unique responsibility for teaching the tools of learning all other subjects. They, often, however do not know the extent of their legal responsibility in seeing that students do, indeed, learn these skills. Although teachers feel a moral responsibility, they may not know just how far this burden goes in teaching unmotivated or handicapped students, as well as the "average" student in the classroom.

Legal base for the Teacher's Role

There is no doubt that education is primarily the responsibility of the state. It is controlled by the body politic through the state legislature with powers delegated at the local level to a board of education. For example, the state constitution in Colorado reads as follows: "The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools . . . wherein all residents of the state, between the

ages of six and twenty-one years, shall be educated gratuitiously . . . and the general assembly may require, by law, that every child of sufficient mental and physical ability shall attend the public school during the period between the ages of six and eighteen for a time equivalent to three years . . . ."

While it may appear that school decision making is fragmented, several key concepts of state law exist. These include the universal right to education between certain ages, the right of the legislature to establish and maintain free schooling, and the concept of some period of compulsory schooling.

In addition, federal and court interest has grown in schooling. The federal government's role in education is indirect with respect to management. It has existed from the beginning of our national history (Northwest Ordinance 1787). Yet, the role is "up-front" when it comes to the issue of access. This is based on the federal constitutional concepts of equal protections of the laws and substantive due process. These civil rights guarantees have served as a base of civil rights legislation and court decisions which have forced the states and local boards to fully implement their legal provisions of universal education for <u>all</u>.

Still, the control of American public schools is based on a collaborative model with the assumption that the operation is primarily a state function. However, few would accept in practical terms that the power of the state is absolute. In recent

times, the determination of who has the power in any particular instance has become a judicial matter. Adjudication is on the increase. Parents, teachers, civil rights and special interest groups now know that the decision making process is not all that clear. So, why not "test the water" in the courts.

Education is supposedly guaranteed universally to all by each state. In recent years, the rights of special groups who were normally excluded sometimes because of state law, but more often by common law traditions--the racially different, the handicapped, the linguistically different, the poor, and those typed disadvantaged for any number of reasons--are not guaranteed access to education by new legislation and court orders.

Not until 1954 (Brown v. Board of Education) were schools given a mandate that all children, in this instance children of all races, were guaranteed equal access to education, as previously granted and mandated by state constitutions and legislative enactments. The decision, based on equal protection of the laws and substantive due process clauses of the Fourteenth Amendment to the U.S. Constitution, placed the established access to public education as a civil right. This decision began the movement to insure that, in fact, state provisions granting free appropriate education to ll children did indeed mean all.

This court decision was the springboard for additional expansion of what "all children" meant. In 1974 (Lau v. Nichols), the Supreme court spoke to rights of the children who

came to school speaking a language other than English. This group was now to be considered part of the "all".

In 1975, Congress enacted the "Education of All Children Act" to insure that handicapped children were not denied access to education. The federal legislation was again preceded by federal district court action (Mills v. Board of Education, 1972, and P.A.R.C. v. Commonwealth of Penn., 1972) which further expanded the concept of equal as a right to those classified as handicapped.

Access to education is a universal right provided by states and is now well-founded and protected. Yet, access is only "half the loaf". Of equal importance is the substance of the experience. There is also an expectation that children will acquire an education through their schooling experience. Again, the burden of proof as to whether all children have received an appropriate free educational experience is based on the programs developed and made part of the state and the local board policy for education. The schools are legally responsible for delivering to all children what they mandate in the prescribed curriculum. And, it is the teacher who is held accountable for delivering the prescribed curriculum.

It is against this backdrop that the responsibilities of the teacher can best be defined. The teacher is a state employee hired by the local board to deliver the education prescribed by the state and the local board to <u>all</u> children to whom the teacher is assigned. The teacher is a state agent carrying out for the

local board its universal education contract, with all children eligible to receive schooling and compelled to attend school. There is a written contract between students, their parents, and the state to deliver a uniform system of education as prescribed by the state and local board. Therefore, the state statutory provisions which specify curriculum and board policies that evolve into curriculum plans are all part of the contract the student has with the state.

This contract has always been applicable to all children. Yet, as outlined previously, it took court action and additional state and federal legislation to insure that the terms of this contract were applied equally to all children.

It is the teacher who is contracted by the state to deliver on its contract. Teachers are employed based on their qualifications, which are validated by education and certification. Teachers are employed to carry out a certain part of the state and local board contract with children. Beyond this legal contract, teachers normally take very seriously the moral and ethical responsibilities associated with nurturing and developing the minds of young people. It is thus a role founded on law, social intent, and moral and ethical issues. It is no doubt an awesome responsibility!

A major part of this awesome responsibility relates to the role of all teachers to teach all students the basic skills. While basic skills may be defined in a number of ways, the definition always includes reading, writing, and computation.

This is supported by the time and extent curricula is dedicated to these basic areas. Schools and teachers share with the community the high regard these basic skills possess. Many would say these skills represent the "union card" for all citizens to gain access to the many benefits available in our free society. These include jobs, financial security, and happiness.

It is logical to assume that any uniform system of education would insure that all students would be taught and master these basic skills at a level necessary to pursue other educational options if desired or to participate fully as contributing members of our society. Logical, maybe, but in fact many children drop out before acquiring basic skill competency. Many more who graduate from high schools cannot perform the most basic skills of reading, writing, and computing.

The legal responsibility is often diluted when society concludes a prioriy that some children cannot learn even the most basic rudimentary skills. The moral responsibility of the teacher is tossed aside or taken too lightly under the guise of having done our best in an impossible environment. Yet, can't we do more? Can't we improve the process to insure that all children acquire a basic education?

How Can We Insure That Learning Is a Result of Teaching?

The basic skills teacher has been caught up in one of the current trends to assure the teaching of these skills, that of competency testing. This is an example of the public putting pressure on educators to do their job effectively. James Popham

of the University of California says the public wants a "limited warranty that no 'undeserving' student will be given a high school diploma. A Detroit High School Proficiency Program which uses measurement-driven instruction to improve performance in basic skills is an example of this demand. One of the first agreements reached in the discussion preceding adoption of the program was that a manageable number of significant, community-endorsed competencies in reading, writing, and mathematics should form the focus of the program."[1] The group agreed that student mastery of basic skills should be assessed by criterion-referenced tests built specifically to measure Detroit competencies. One of the most significant outcomes of the experiment is the revision of the curriculum and a strengthening in those areas covered by the test.

There are many critics of competency testing, ranging from discrimination to harassment of teachers and academic freedom. Thomas Toch, writing in Education Week, says that these tests often fail to provide teachers with information they can use to improve school work of the students tested.[2] Edys Quallmalz of the Center for the Study of Evaluation, a research center funded by National Institute of Education, writes, "Most standardized tests are by and large ceremonious, and are of very little use in the diagnosis of a student's academic weaknesses."[3] Marilyn Averill, member of the testing staff at the Boulder Valley Schools in Colorado, contends that "Minimum-competency exams test a narrow range of skills and they do not result in a better instructional system in the classroom."[4]

However, teachers must realize that to run a school without periodic and systematic audits of pupil progress and achievement makes no more sense than to run a business without keeping track of income and expenses, profits and losses.

Hilary Taylor Holbrook feels that ironically the Minimum Competency Test movement is most concerned about reading and writing, but it is in precisely those areas where educators have voiced strongest opposition to MCT. High school exit exams in many districts do not require any writing. Rather, students are asked as part of inexpensive and machine-scorable multiple-choice tests, to identify mistakes in writing samples. The valid argument is that this does not test the student's ability to compose, to think through and logically develop ideas and put them into written form. However, tests to measure these can be given.[5] Robert T. Ebel of Michigan State University observes that outcomes of instruction are tangible and must make an observable difference in behavior.

"If it does, it is measurable, because all that measurement requires, fundamentally, is the observation of differences . . . . Any complex outcome that has been defined clearly enough to be taught effectively can be tested effectively." Ebel further contends that "Teachers cannot say they know what they are trying to do if they cannot tell when they have done it. Claims for effectiveness of an instructional program that cannot be substantiated ought not to be believed."[6]

Ongoing evaluation should be taking place with both formative and summative testing as part of the curriculum planning. Teachers need to look at teacher-made tests, at criterion tests to determine how well students are mastering specific facts and ideas being taught in the classroom. Educators need, also, to look at what their students are doing according to the national norm. After all, if many educators think a skill is important, perhaps we need to assess our students in view of how other schools and students perform that skill. Ebel proposes that "all teachers should submit evidence periodically of the learning achievements of pupils in their classes . . . . Professional trained teachers can be given (and in schools they are given) considerable control over the strategies and tactics for instruction and over the classroom environment for learning. Under these conditions, teachers can quite properly be held responsible for the general level of their pupils' learning achievement. If teachers cannot show the extent of pupil attainment of the objectives they purport to be teaching, then they ought to stop claiming those objectives are important."[7]

Another effective way for basic skills teachers to avoid litigation is to follow the developed curriculum for the district. If no such curriculum exists, then teachers should see that one is developed. That curriculum should provide rigorous, challenging courses for all students, including those we do not consider "good" students. We should develop teaching guides that reflect the objectives of the curriculum and teach to the objectives. We should have a built-in system for formative and

summative evaluation of mastery of those objectives. Students must be provided with materials which they can handle at their present level of proficiency. They must be told what they are to learn (because we know what that is), and then they must be shown how to learn it. Students must be held responsible for learning and should suffer the consequences for not doing what they know how to do. If this makes the teacher feel sorry for the student, let that teacher feel sorry when these same students with whom we are so sympathetic hit the job market and can't succeed. It is not humane to pass students on and lie to parents about progress in order to make them feel better or to protect our jobs. If we really care about students, we will demand excellent work from all students.

Conclusion

Merely passing competency laws or providing for education through legislative mandate will not insure that students acquire the basic skills. It is the legal responsibility of all teachers to see that a basic skills curriculum is followed, that students are expected to achieve a level of proficiency in the use of the English language and in computation, and that periodic evaluation of that achievement take place. All teachers become liable since no subject can be learned without the use of basic language. It is the place of the language arts teachers to teach the structure and usage of the language, but it is the province of all other teachers to see that the language is properly used to read and write subject matter.

Society has always measured the educated person by how well s/he can read, write and compute. The age of technology has not changed that fundamental requirement. Nor has it relieved the teacher from duty to teach the basic skills.

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